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SUBJECT: SENEGAL'S PUBLIC PROCUREMENT AUTHORITY PLANS TO AUDIT  
MINISTRIES, AGENCIES, AND INSTITUTIONS

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1. (SBU) Summary: Following the January 2008 establishment of broad and strict new public procurement requirements, the main regulatory agency, ARMP, is gearing up to conduct independent, far-reaching audits of public institutions' compliance with the new standards. This could prove politically difficult since a number of the national agencies and ministries to be audited are carrying out special presidential programs that are widely assumed to not meet the transparency, accountability, and competitive bidding requirements of public tender laws. We agree with ARMP that donors should make known our interest in these audits and the principle of non-interference should judicial action be warranted. End summary.

2. (SBU) According to officials from Senegal's (mostly) independent public procurement regulatory authority, ARMP, all of Senegal's large public entities, and some of the smaller ones, that do public procurements and tenders (or are supposed to), will be audited for compliance with the country's strict public procurement laws, which entered into effect on January 1, 2008 and which conform to WAEMU directives. ARMP is finalizing the tender award for an international audit company to carry out the task.

3. (SBU) Under the current plan, all public institutions with budgets of CFA 10 billion or more (approximately USD 20 million) will be audited. This will include most ministries and national agencies (including agencies directed by the Presidency), as well as other public institutions such as universities and hospitals. Fifty percent of institutions with budgets between CFA 5-10 billion and 25 percent of those with budgets below CFA 5 billion will also be audited. The World Bank will help finance this important project. According to Mr. Saer Niang, ARMP's Director of Training and Public Information, 20-40 contract auditors may be required since the goal is to complete the audits in 2009. ARMP will provide specific training to the contract auditors.

#### ARMP'S Role

4. (U) ARMP assures that government entities are properly following Senegal's public procurement laws, and it rules on discrepancies or requests for waivers to those laws. ARMP currently receives some budgetary support from the government, but aspires to be fully independent by charging fees on companies responding to public tenders. ARMP, through Niang's office, is also responsible for publicizing Senegal's public procurement requirements and for training government institutions, industry groups, and civil society on these requirements and procedures via workshops and other outreach. ARMP has received funds from Canada and the European Union to conduct these outreach efforts in and around Dakar, and has also received USAID funding to do similar work in a number of cities outside Dakar. ARMP also maintains a "liste rouge" (blacklist) of

companies that are under sanctions and not permitted to bid on public tenders. Companies can be excluded for ten years or longer. These cases and ARMP's decisions are posted on its website.

15. (U) Senegal has another institution that controls and monitors public tenders, the "Direction Centrale des Marches Publics" (DCMP), which reports directly to the Ministry of Finance. It coordinates with ARMP on public outreach and data-gathering. DCMP also provides advice and rulings on tender awards and on requests for waivers. The public procurement code permits very few exceptions to competitively bid tenders. DCMP is required to publish on its website quarterly the list of contracts awarded. No public procurement action should be permitted unless it was included in the procurement plans submitted in advance to the DCMP by governmental organizations.

#### EXPECTING PROBLEMS -- HOPING FOR POLITICAL SUPPORT

16. (SBU) Niang fully expects that serious irregularities will be found during the course of the audits. He noted that in some cases individuals may be required to return misappropriated money. He is optimistic that serious problems will be forwarded to the judicial system for possible prosecution. In anticipation of such actions, Niang's team is already providing training to government auditors, magistrates, prosecutors, and judges. Niang said it would be vitally important that all irregularities be handled in a transparent and strict manner and that there be no political pressure "from the Presidency or elsewhere" to permit some institutions to avoid accountability. In Niang's view if this first round of audits proceeds without interference, it will set a high standard and send the right message that there will be no political protection for either government agencies or private companies with regards to public procurement irregularities. Niang appealed to Econ Counselor for the USG and other donors to make this point directly to President Wade and other senior officials. ARMP plans

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to make all results from the audits publically available on its website.

#### COMMENT

17. (SBU) The GOS deserves compliments for establishing new laws, regulations, and procedures that fully realize WAEMU guidelines on public procurement. It appears that public institutions are largely taking seriously the goal of having almost all public contracts for goods and services be awarded via the public tender process. It would be a very positive indication of the Wade Administration's commitment to public finance reform should ARMP be successful in conducting thorough reviews and audits of public institutions' use (or possible misuse) of public procurements and by allowing irregularities to pass without political influence through the judicial system. To date, however, national agencies that are largely extensions of President Wade's special projects, such as ANOCI (run by the President's son) and APIX (the agency for investment promotion and "grand works") have managed to avoid independent scrutiny of many activities and transactions. Therefore, looking for opportunities to highlight the importance of non-interference with ARMP's audits will be a goal for us, and we hope for other donors as well.

18. (U) There may also be a valuable role for the MCC to play in supporting the theory and practice of open and fair public tenders as it establishes the framework for its proposed compact with Senegal.

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